

(Published in *The Wichita Eagle* on November 17, 2005)

ORDINANCE NO. 46-814

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, PROVIDING FOR THE APPLICATION OF BENEFIT FEES RECEIVED BY THE CITY FROM OWNERS OF PROPERTY WHICH BENEFIT FROM CERTAIN WATER OR SANITARY SEWER IMPROVEMENTS INITIATED BY PETITION PURSUANT TO K.S.A. 12-6a04, AS AMENDED, ALL OR A PORTION OF THE COST OF WHICH HAS BEEN PAID FROM EITHER PROCEEDS OF WATER AND SEWER UTILITY REVENUE BONDS OF THE CITY OR OTHER AVAILABLE FUNDS OF THE WATER AND SEWER UTILITY OF THE CITY.

WHEREAS, the City of Wichita, Kansas (the "City") is a city of the first class duly created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, the City is authorized under the laws of the State to construct, reconstruct, alter, repair, improve, extend or enlarge its municipal utilities and to issue general obligation bonds or revenue bonds or use other available funds in payment of the cost there; and

WHEREAS, the governing body of the City has heretofore by Ordinance No. 39-888, adopted May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City owned and operated municipal water utility and municipal sewer utility thereby creating the "City of Wichita, Kansas Water and Sewer Utility" (hereinafter sometimes referred to as the "Utility"); and

WHEREAS, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended and supplemented, including particularly K.S.A. 12-6a19 (hereinafter referred to as the "Act"), the City requires the owners of property which benefits from the construction of certain water and sanitary sewer improvements initiated by petition pursuant to K.S.A. 12-6a04, and amendments thereto, all or a portion of the cost of which has been paid from either proceeds of water and sewer utility revenue bonds of the City or other available funds of the Utility, to pay certain benefit fees; and

WHEREAS, no part of the cost of the improvements with respect to which the benefit fees are required has been or will be paid by the owners of property included in the original benefit district, and no part of the cost of such improvements has been or will be paid from general obligation bonds or other funds provided by the city at large; and

WHEREAS, the Act makes no provision in such cases for the application of such benefit fees, and the governing body of the City desires to make such provision under the authority of Article 12, Section 5 of the Constitution of the State;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. In cases where the City has constructed water and sanitary sewer improvements initiated by petition pursuant to K.S.A. 12-6a04, and amendments thereto, all or a portion of the cost of which has been paid from either proceeds of water and sewer utility revenue bonds of the City, or other available funds of the Utility, and acting pursuant to K.S.A. 12-6a19, as amended, the City has required owners of property which benefits from such improvements but which was not included within the original benefit district to pay a benefit fee, such benefit fees shall upon receipt be considered Gross Revenues of the City derived from the operation of the Utility, and shall be applied to and deposited in the Water and Sewer Utility Revenue Fund created and maintained by the City, all as more specifically provided in Ordinance No. 41-934 of the City adopted January 26, 1993, and the various ordinances and resolutions of the City adopted thereafter with respect to the parity water and sewer utility revenue bonds of the City.

Section 2. This ordinance shall be in force and take effect from and after its passage and approval by the governing body of the City, and its publication one time in the City's official newspaper.

PASSED AND APPROVED by the governing body of the City of Wichita, Kansas on November 8, 2005.

(Seal)

Carlos Mayans, Mayor

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, Director of Law